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OCT 19 2005

From: Chris Rode
Applicant, PRO-SE
Application 09/287,478
To: Thai Phan, AU 2128
Date: 10/19/2005

Dear Mr. Phan,

Attached please find a summary of our phone conversation of 10/21/2005.

Best regards,
Chris Rode

**Summary of Phone Call regarding Application 09/287,478
9/21/2004 9:07-9:22
(Response to Office communication mailed 9/26/2005)**

Present: Examiner Thai Q. Phan; USPTO
Christian S. Rode; Rode Consulting, Inc.

Applicant placed a call to the Examiner's office at 9:07 AM to inform him that Applicant would not be fully prepared for a previously arranged phone interview later that day (at 1:00 PM) and asking if the examiner had received instead an informal fax sent just prior to the call. Examiner seemed surprised by the prospect of an interview and not prepared to conduct it at that time. Consequently, this call was not intended to be an interview, and incomplete in that the conversation was mostly one-way.

During the call, Applicant recapitulated the key points of the informal fax, points that were included formally in our September 22 response to Examiner's office action of April 22, 2005, namely, that not only was the Lawman patent 6,324,672, assigned to Xilinx, Inc., a sometime client (sponsorship, via a third party) for the present invention, but at least by 1999 Xilinx was fully cognizant of the limitations of their own invention, namely that it was unable to work behind corporate firewalls because it required traditional client-server connectivity. One of the Applicant's goals for this call was to convince the Examiner of the distinction between 1) a traditional client-server application, where network state is maintained in continuity between client and server and, 2) a web-based application where the communication protocol (such as HTTP) is stateless. Applicant averred that not only does the Lawman patent require unfettered connection to the internet, it also requires Java or a similar browser plug-in to maintain that connection state and requires login accounts to manage limited server resources. All of this behavior has been acknowledged repeatedly as part of the prior art, and Applicant would like to also note that Lawman was by no means the first to use an HTML-wrapped Java applet opening a socket to its origin server. In fact, Applicant feels the citation of Lawman (672) is one of the best possible arguments in favor of allowability of claims for the present invention for the following reasons:

- 1) Lawman demonstrates some of the exact limitations in the prior art that the present invention was designed to overcome and in the same timeframe as the present invention was reduced-to-practice; namely March-July, 1997. (i.e., proxy incompatibility, HTML form incompatibility, required account management). Since by definition Lawman must have been skilled in the art to receive his patent, and yet was unable to either anticipate or overcome its limitations, the present invention must be non-obvious.
- 2) Xilinx became a(n indirect) client for the present invention, by becoming principal sponsor of the website making use of its technology (EDTN / Chipcenter). Applicant would like to add that there were never any prior discussions with, or transfer of relevant technology from, either Xilinx or EDTN / Chipcenter and the Xilinx sponsorship occurred many months after the EDTN site became public and the regular application was filed. (See IDS of 10/19/2005, item 5)
- 3) In 1999, Xilinx published an app note, #7436, explaining the inability of their PCI LogiCORE applet (essentially the preferred embodiment of Lawman '672) to work behind corporate firewalls (see Xilinx LogiCORE web documents disclosed in IDS of 10/19/2005, item 1). Xilinx has since apparently abandoned this type of web-based interface (email from Xilinx tech support, filed separately in the IDS of 10/19/2005, item 4). It is reasonable to infer their sponsorship of the EDTN / Chipcenter site may have reflected an interest in the improved technology of the present invention.

Applicant also asked whether the phrase "Unique Identifier" could be restricted or replaced to

make some claims allowable, however the Examiner was noncommittal. I do not recall a specific discussion with respect to any particular claim, just generally on Lawman and obviousness and Xilinx as a client for the present invention.

The Examiner was not prepared to discuss these issues at that time and therefore noncommittal and requested instead that Applicant file a formal response and in that response to keep the arguments as simple as possible. He also mentioned something about new matter for which I was unable to get an elaboration. Applicant's understanding at that time was the Examiner would review the formal response and then make himself available to be interviewed, making theoretically possible a second response to the same office action before end of a third month of extensions.

The call concluded at 9:22 AM.

Inasmuch as the call was unexpected and consequently aborted, Applicant was only able to make statements and ask questions, but did not receive usable answers. The unanswered questions include:

- 1) Has the Examiner been persuaded of the critical difference in communication mechanism between Lawman (a 709.203 mechanism), and the present invention, for which the preferred embodiment is CGI (and would therefore be classified as 709.311/310)?
- 2) Has the Examiner been persuaded that the present invention obviates the need for account management, by dynamic assignment of a Unique Identifier, which is used to manage server resources? The present invention shows an optional login step (intended primarily for purposes of confidentiality), but it is not essential and was added at the request of Teradyne.
- 3) Does the examiner still feel there is new matter in the application as amended?
- 4) The Examiner's recent arguments have centered on obviousness; Applicant had hoped to ask about each of the following arguments in favor of non-obviousness:
 - a) Unexpected Results / Assumed Unworkability / Unsuggested Modification / Lack of Implementation / New Principle of Operation
The present invention, in the form of a web-based SPICE simulation surprised all who saw it, even as late as early 1998. The closest equivalent wasn't disclosed until May 1998.
 - b) Inoperative Reference
By Xilinx's own admission, it was inoperative in a key respect as compared with the present invention.
 - c) Commercial Acquiescence
Xilinx did not license the present invention, but did sponsor a site making use of it and discussions were begun about building a custom site for them.
 - d) Competitive Recognition
We have outstanding questions the Transim product and their relationship to National Semiconductor, particularly after spending almost two years attempting to sell the latter on the advantages of the present invention.

Applicant still hopes to obtain answers to these questions and hopes that this phone call has not precluded the possibility of obtaining those answers in a regular interview.

Respectfully submitted,
Christian S. Rode
10/19/2005